MONTANA LEGISLATIVE HISTORY

Chapter 555 19 77

Bill H _____ S 227 Original bill & history ✓ C

H. Committee on Local Gov.		S. Committee on Local Gov.	
Hearing Date(s) referred to	C	Hearing Date(s) 2-4	✓ C
Nat. Reso.	C	_____	C
3-9	✓ C	_____	C
4-6	✓ C	_____	C
Date Out _____	C		

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Senate BILL NO. 227

INTRODUCED BY Story Devaney Manley Pederson
Boylan Towe Dover Stutt Flynn Neely

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 11-3866, R.C.M. 1947, RELATIVE TO THE IMPOSITION OF CONDITIONS AFTER APPROVAL OF A PRELIMINARY PLAT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 11-3866, R.C.M. 1947, is amended to read as follows:

"11-3866. Submission of subdivision plat to governing body -- notice -- hearing -- approval -- disapproval. (1) Except where a plat is eligible for summary approval the subdivider shall present to the governing body, or the agent or agency designated thereby, the preliminary plat of the proposed subdivision for local review. When the proposed subdivision lies within the boundaries of an incorporated city or town, the preliminary plat shall be submitted to and approved by the city or town governing body. When the proposed subdivision is situated entirely in an unincorporated area the preliminary plat shall be submitted to and approved by the governing body of the county; however, if the proposed subdivision lies within one (1) mile of a third class city or town or within two (2) miles of a second class city or within three (3) miles of a first class city the county governing body shall submit the preliminary plat to the city or town governing body or its designated agent for review and comment. If the proposed subdivision lies partly within an incorporated city or town, the proposed plat thereof must be submitted to and approved by both the city or town and the county governing bodies. This section does not limit the authority of certain municipalities to regulate subdivisions beyond their corporate limits pursuant to section 11-3305.

(2) The governing body shall approve, conditionally approve, or reject the preliminary plat within sixty (60) days of its presentation unless the subdivider consents to an extension of the review period. The preliminary plat shall show all pertinent features of the proposed subdivision and all proposed improvements. The governing body or its designated agent or agency shall review the preliminary plat to determine whether it conforms to the local master plan if one has been adopted pursuant to sections 11-3801 through 11-3856 to the provisions of this act, and to rules and regulations prescribed or adopted pursuant to this act.

(3) The governing body or its authorized agent or agency shall hold a public hearing on the preliminary plat and shall consider all relevant evidence relating to the public health, safety and welfare, including the

environmental assessment, to determine whether the plat should be approved, conditionally approved, or disapproved by the governing body. Notice of such hearing shall be given by publication in a newspaper of general circulation in the county not less than fifteen (15) days prior to the date of the hearing. The subdivider and each property owner of record immediately adjoining the land included in the plat shall also be notified of the hearing by registered mail not less than fifteen (15) days prior to the date of the hearing. When a hearing is held by an agent or agency designated by the governing body, the agent or agency shall act in an advisory capacity and recommend to the governing body the approval, conditional approval, or disapproval of the plat. This recommendation must be submitted to the governing body in writing not later than ten (10) days after the public hearing. If the governing body rejects or conditionally approves the preliminary plat, it shall forward one (1) copy of the plat to the subdivider accompanied by a letter over the appropriate signature stating the reason for rejection or enumerating the conditions which must be met to assure approval of the final plat. After the preliminary plat is approved, the governing body and its subdivisions may not impose any additional conditions as a prerequisite to final plat approval.

(4) The basis for the governing body's decision to

approve, conditionally approve, or disapprove a subdivision shall be whether the preliminary plat, environmental assessment, public hearing, planning board recommendations and additional information demonstrate that development of the subdivision would be in the public interest. The governing body shall disapprove any subdivision which it finds not to be in the public interest. To determine whether the proposed subdivision would be in the public interest the governing body shall issue written findings of fact which weigh the following criteria for public interest:

(a) the basis of the need for the subdivision;

(b) expressed public opinion;

(c) effects on agriculture;

(d) effects on local services;

(e) effects on taxation;

(f) effects on the natural environment;

(g) effects on wildlife and wildlife habitat, and

(h) effects on the public health and safety.

(5) Upon approving or conditionally approving a preliminary plat, the governing body shall provide the subdivider with a dated and signed statement of approval. This approval shall be in force for not more than one (1) calendar year; at the end of this period the governing body may, at the request of the subdivider, extend its approval for no more than one (1) calendar year."

-End-

45th LEGISLATIVE SESSION

COMMITTEE ON LOCAL GOVERNMENT

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
23	1-3-77	1-7-77	1-8-77			1-7-77			
64	1-10-77	1-14-77	1-14-77			1-14-77			
113	1-17-77	1-21-77	1-21-77			1-21-77			
116	1-17-77	1-21-77	1-21-77	1-21-77					
164	1-20-77	1-26-77	2-23-77		2-23-77				
175	1-21-77	1-26-77	2-24-77			2-24-77			
192	1-21-77	1-28-77	1-31-77			1-28-77			
195	1-21-77	1-28-77	2-9-77			2-8-77			
198	1-21-77	2-7-77	2-17-77			2-16-77			
199	1-22-77	2-2-77	2-3-77			2-3-77			
200	1-22-77	2-9-77	2-23-77			2-22-77			
224	1-22-77	1-31-77	2-4-77			2-4-77			
225	1-22-77	1-31-77	2-4-77			2-4-77			
226	1-22-77	2-4-77	2-18-77			2-16-77			
227	1-22-77	2-4-77	2-4-77	2-4-77					
232	1-24-77	2-2-77	2-3-77			2-3-77			
267	1-25-77	2-10-77	2-16-77		2-16-77				

Senate, House Bills, and Resolutions

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

February 4, 1977

The meeting of the Local Government Committee was called to order by Chairman McCallum on February 4, 1977 at 9:37 A.M. in Room 410 of the State Capitol Building.

ROLL CALL: All members were present except Senator Lockrem, who was excused.

The following visitors were present: Steve Brown, Department of Health; Ed Casne, Department of Health; Ben Wake, Department of Health; Tom Ellerhoff, Department of Health; Jerry Ditto; Glen Drake, League of Cities and Towns; Steve Turkiewicz, Montana Association of Counties; Mike Foster, Intern; Kay McPherson, Montana Association of Realtors; Milt Dykstra, City of Helena; Charles Swart, 79 Registered Land Surveyors; Sandy McPherson, Montana Association of Realtors; Cliff Christian; Joe Gerbase, Montana Association of Realtors.

CONSIDERATION OF SENATE BILL 226: Senator Story, Sponsor of the bill gave a brief resume. Joe Gerbase, Lobbyist, Montana Association of Realtors stated that Senate Bill 226 would streamline the subdivision regulation process. Mr. Gerbase submitted proposed amendments to Senate Bill 226 (attached). He stated time is a primary factor with increased costs and inflation. Senate Bill 226 would cut down requirements with the Department of Health and Environmental Sciences as the controls are in the law. Steve Brown, Chief Counsel for the Department of Health and Environmental Sciences, supports Senate Bill 226 as the Health Department wants to streamline the process. Mr. Brown discussed the possibility of amending to include provision in Senate Bill 310 Senate Bill 226. Sandy McPherson, Montana Realtors Association, testified in favor of Senate Bill 226. Charles Swart, 79 Registered Land Surveyors, testified in favor of Senate Bill 226 (attached). Bob Kiesley, Environmental Information Center, would like to work on amendments.

CONSIDERATION OF SENATE BILL 227: Senator Story, Sponsor of Senate Bill 227 asked Joe Gerbase, Montana Realtors Association, to present Senate Bill 227. Mr. Gerbase gave a resume of Senate Bill 227. Cliff Christian, Montana Realtors Association, and Charles Swart, 79 Registered Land Surveyors, testified in support of Senate Bill 227.

Senator Watt moved Senate Bill 227 be give a "Do Pass" recommendation. Senator Peterson seconded the motion. Motion carried unanimously.

Senator Story presented amendments to Senate Bill 224 (attached). Senator Peterson moved to adopt the amendments to Senate Bill 224. Senator Dunkle seconded the motion. Motion carried unanimously. Senator Thomas moved Senate Bill 224 be give "And As So Amended, Do Pass" recommendation. Senator Peterson seconded the motion. Motion carried unanimously.

Senator Dunkle moved to adopt amendments (attached) to Senate Bill 225. Senator Thiessen seconded the motion. Motion carried unanimously. Senator Dunkle moved Senate Bill 225 be give an "And As So Amended, Do Pass" recommendation. Senator Thomas seconded the motion. Motion carried unanimously.

ADJOURN: The meeting adjourned at 10:30 with the next meeting to be Monday, February 7, 1977 to hear Senate Bill 198 and Senate Bill 267.

Senator George McCallum, Chairman

mm

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 1-4-77

NAME	PRESENT	ABSENT	EXCUSED
George McCallum	✓		
Robert Watt	✓		
Pete Story	✓		
Frank Dunkle	✓		
Lloyd Lockrem			✓
Bob Peterson	✓		
Cornie Thiessen	✓		
Bill Thomas	✓		

SENATE LOCAL GOVERNMENT COMMITTEE

BILL [illegible] VISITORS' REGISTER DATE 1-4-77

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Steve Brown	Dept. of Health		X with amend.	
[illegible]	" " "			
Ben Wahl	" " "			
Tom Ellerhoff	" " "			
Jerry Ditto	Myself			
Glen Drake	League of Cities & Towns	226 227		
Steve Turkiewicz	Mt. Assoc. of Counties	226 227		
Mike Foster	Intern			
Jim McPherson	Mt. Assn. of Realtors	266 267	X	
Mike Spence	City of Helena			
CHARLES SWART	79 REC. LAND SURVEYORS	225 227	✓	
CE Sandy McPherson	75 E Lyndale Helena MT 95% Realtors	226 227	X	
CLIFF CHRISTIAN	501 N SANDERS - HELENA	226 227	X	
Joe Gerbase	501 N Sanders - Helena	226 227	X	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

NAME: CHARLES SWART DATE: 4 FEB 1977

ADDRESS: 324 S. GRAND AVE. BOZEMAN

PHONE: 587-3280

REPRESENTING WHOM? A GROUP OF 79 REG. LAND SURVEYORS

APPEARING ON WHICH PROPOSAL: S.B. # 226 + SB. # 227

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: PLEASE SEE ATTACHED.

In support of Senate Bill #227, before the Local Government Committee of the Senate

This bill deals with a item which I don't believe anyone of us would have felt would be a problem; I think most of us would feel that a final approval after a preliminary approval would be addressed only to the items which were questioned initially. We find that this is not the case, and on a final approval points will be raised which were not considered at all on the preliminary plat. The time in preparing final prints is considerable, and the materials for the maps are very dear; these costs are small, however, compared to the delays incurred for the revision of items which should have been noted in the preliminary review, if at all.

STANDING COMMITTEE REPORT

February 4 19 77

MR. President

We, your committee on Local Government

having had under consideration Senate Bill No. 227

Respectfully report as follows: That Senate Bill No. 227

DO PASS

Senator Conover Chairman.

STATE PUB. CO.
Helena, Mont.

LOCAL GOVERNMENT COMMITTEE

45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 199	"An Act to Amend Section 11-403, R.C.M. 1947, by Requiring That Notice be Given to All Freeholders Prior to Annexation....."	2-11-77	Murray	~~2-25-77~~ ~~3-2-77~~ 3-4-77	CONCURRED IN	3-7-77
SB 227	"An Act to Amend Section 11-3866, R.C.M. 1947, Relative to the Imposition of Conditions After Approval of a Preliminary Plat."	2-11-77	Story	~~2-25-77~~ ~~3-2-77~~ 3-4-77	Re-referred to Natural Resources 2-26-77	
HB 229	"An Act to Provide Group Insurance for all Departments, Bureaus, Boards, Commissions, and ....."	2-15-77	Gerke		DO PASS 2-16-77	2-17-77
HB 789	"An Act to Provide for the Creation of an Urban Undeveloped Lot District and to Authorize....."	2-15-77	Waldron	2-21-77	DO NOT PASS	2-23-77
SB 232	"An Act to Permit All Freeholders of Property in a Territory to Petition for Annexation and to Vote on Questions of Annexation..."	2-15-77	Murray	~~2-25-77~~ ~~3-2-77~~ 3-4-77	NOT CONCURRED IN	3-9-77
HB 793	"An Act to Require a Majority Vote by Qualified Electors for Authorization and Approval Before....."	2-16-77	Pistoria	2-21-77	DO NOT PASS	2-21-77

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 302	Amends the Mont. Env. Policy Act to specify that the Act does not expand the substantive decisions making authority of state agencies, etc.	Feb. 22	Roskie	March 21	AS AMENDED BE CONCURRED IN	April 6
SB 314	Changes the method of filling vacancies on the EQC.	Feb. 22	Hager	March 11	CONCURRED IN	March 11
SB 173	Requires that at least 1/2 of the annual expenditures of the F&G acquisitions be used to purchase the development rights of, etc.	Feb. 23	Jergeson	March 17	BE NOT CONCURRED IN AS AMENDED	March 29
SB 284	Relates to the rec. and reveg-itation of lands affected by strip-mining operations in the state of Montana.	Feb. 23	Thiessen	March 15	NOT CONCURRED IN	March 23
SB 298	Transfers certain duties to the DNR from the Dept. of Adm. under the renewable resource development program.	Feb. 25	Hazelbaker	March 23	BE CONCURRED IN	March 23
SB 227	Relative to the imposition of conditions after approval of a preliminary plat.	Feb. 26	Story	March 9	AS AMENDED BE CONCURRED IN	April 6

any moneys received must be escrowed and he felt this bill would help prevent fraud abuses of the subdivision law.

JOE GERBASE, Montana Association of Realtors, said he has had to break the law this bill applies to as it is the only way that many will sell. He supported the bill.

PETE JACKSON, WETA, supported the bill.

CHARLES FRICKE, Florence, representing self, said all moneys from all sellers need to go into a trust account or escrow account to protect the buyers.

PAUL BRUNNER spoke in support. He said he was enthused with the bill as one can use small tracts to test the market to see if a larger subdivision would go.

ROBERT MILLER, Montana Homebuilder's Association, spoke in support.

ROD WILSON, Billings Chamber of Commerce, spoke in support and a copy of his testimony is exhibit 5.

FRED BELL, Stevensville, representing self, signed as supporting.

JIM RICHARDS, DCA, signed as an amender. He said he could foresee some real problems even with the amendment. One of the problems is pressure on the planning board from people already building. He said it had a positive purpose but would need a little tightening up and he would be glad to help.

DENIS W. VOGT, Lewis and Clark APO, signed as an amender and opponent. He suggested the proposed bill be amended to allow transfer of property only after approval by the local government.

PAUL BOLTON, Montana Association of Planners, signed as an opponent. A copy of his testimony is exhibit 6.

BOB KIESLING, EIC, signed as opposing and a copy of his testimony is exhibit 7.

Sen. Story said this applies only to a written contract--the purchasers of the plats would be on notice that the preliminary assessment has not been done yet--all money given would be in escrow. He encouraged the subcommittee to work out any technical problems.

During questions it was mentioned that contracts for deed need not be recorded.

SBs 226 and 227 REP. JOHN SCULLY said SB 226 deals with sanitary restrictions. If a subdivision is within a city with no question of water and sewer service being ample, it will be unnecessary to go through the Department of Health to be released. He presented a list of amendments which he said had been drawn up with Steve Brown's assistance, exhibit 8, and the Montana Association of Realtors.

Rep. Scully said that Senate Bill 227 requires local governing bodies to specify all conditions at the preliminary plat state, and once those conditions have been met the plat would be adopted. He said Mr. Bolton of their community is very straight forward with the requirements needed. He said for some planners this may mean a little more consideration on the preliminary plat.

ED CASNE, Department of Health, said the amendments on SB 226, exhibit 8, no longer reflect the Department of Health's stand and he respectively requested they be withdrawn.

JOE GERBASE, Montana Association of Realtors, said SB 226 would be eliminating unnecessary duplication and he supported it. He also supported SB 227.

PAUL BRUNNER, representing self, told of an unhappy experience he had with the Great Falls planning board. He felt some planning boards needed laws to bring them into more responsible actions.

DENNIS VOGT, Lewis and Clark APO, said of SB 226 it was a bit redundant to require a state inspection within the city limits when the sewer and water were already there. However, he felt private systems should be excluded as many times they are not constructed to accommodate expansion of use and therefore should be reviewed by the state Health Department--as an example, he mentioned Treasure State Acres in the Helena Valley, which needed a new lagoon when it expanded.

ROD WILSON, Billings Chamber of Commerce, spoke in support, and a copy of his testimony is exhibit 9.

FRED BELL, representing self, said this bill (SB 227) would prevent special interest groups from pressuring a planning board into revisions of the preliminary plat, thereby causing prolonged and unnecessary diversion as a means to stop the proposal.

BOB KIESLING, EIC, said they had no quarrel with SB 227 but he said they opposed SB 226 until the confusion with the amendments could be worked out.

Senator Story said in closing that they have worked with the Department of Health and will continue to do so. He said they want to receive notification even if they are not checking sanitary conditions. He said this is reasonable as a subdivision may overload a system. He said they also might fear being underfunded if they are no longer getting their review money. He wished to be advised when the subcommittee would meet.

CHARLES FRIKKE signed as supporting SB 227.

CLIFF CHRISTIAN and SANDY McPHERSON, Montana Association of Realtors, signed as supporting all four bills.

Chairman Shelden said the Flathead Planning people were unable to be present because their plane was grounded but would send their statements.

Chairman Shelden appointed the following subcommittee to work on the subdivision bills: Reps. Harper, Chairman; Hirsch; Hurwitz; Metcalf; Ernst.

SENATE BILL 227

Rep. Harper moved the subcommittee's amendments be adopted and SB 227 as so amended be concurred in. He said this bill is generally regarded as a clarification of existing law. Motion carried unanimously with the same absent.

SENATE BILLS 226 and 310

Rep. Harper said his subcommittee did not come to a decision on these two bills. He said SB 226 permits the responsibility for review of small subdivisions connecting to existing sewers to pass from the state to the local people. With the added responsibility will come a need for additional funding for the local people and the state health department could end up $65,000 to $75,000 short. Rep. Harper said this will have to be made up by increasing the fees or asking for more from the general fund. Rep. Harper recommended increasing the fee to $40 as he said he could not foresee the Senate agreeing to an increase in the general budget. He said SB 310 is the companion bill that would increase the revenue.

Rep. Curtiss presented some amendments to SB 310 which had been prepared by Rep. Severson (exhibit 8). She said to strike amendment number 5. After discussion she moved the adoption of amendment number 6--which would increase the fee returned to the local people from $10 to $20. Motion carried with 8 yes, 5 no (Harper, Cooney, Ernst, Frates, Metcalf), 4 absent (Bengtson, Hirsch, Huennekens, Quilici). Rep. Harper said in reference to the other amendments that it does not make much sense to amend the bill without talking to the people who know. He expressed a wish that the amendments had been available to the subcommittee for study. Rep. Curtiss apologized saying she was unaware this bill was in his subcommittee. Rep. Hurwitz said he felt amendment 2 which strikes the need of monitoring should not be accepted. Rep. Davis agreed and moved it not be adopted. Rep. Curtiss withdrew this amendment. She moved amendments 1, 3 and 4 be adopted and this motion failed with 9 no, 5 yes (Burnett, Cox, Curtiss, Davis, Hurwitz), 3 absent (Hirsch, Huennekens, Quilici).

Rep. Harper moved the fee be placed at $40 in SB 310. Motion carried with 9 yes, 5 no (Bengtson, Cox, Ernst, Hurwitz, Nathe), 3 absent (same).

Rep. Harper moved the bill as amended be concurred in. Motion carried with 10 yes, 4 no (Burnett, Davis, Bengtson, Nathe), 3 absent (same).

Rep. Harper then moved that SB 226 be concurred in. This motion carried unanimously with the same absent.

SENATE BILL 302

Rep. Meloy said this bill would assure that the agencies participating in the writing of an EIS do not go beyond their own specific statutory authority. He went through his suggested amendments, a copy of which is exhibit 9. Rep. Harper moved the adoption of the amendments.

SENATE BILL NO. 227

INTRODUCED BY STORY, DEVINE, MANLEY, PETERSON, BOYLAN, LOWE, DOVER, GALT, FLYNN, HEALY

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 11-3866, R.C.M. 1947, RELATIVE TO THE IMPOSITION OF CONDITIONS AFTER APPROVAL OF A PRELIMINARY PLAT AND THE REVIEW OF MINOR SUBDIVISIONS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 11-3866, R.C.M. 1947, is amended to read as follows:

"11-3866. Submission of subdivision plat to governing body -- notice -- hearing -- approval -- disapproval. (1) Except where a plat is eligible for summary approval the subdivider shall present to the governing body, or the agent or agency designated thereby, the preliminary plat of the proposed subdivision for local review. When the proposed subdivision lies within the boundaries of an incorporated city or town, the preliminary plat shall be submitted to and approved by the city or town governing body. When the proposed subdivision is situated entirely in an unincorporated area the preliminary plat shall be submitted to and approved by the governing body of the county; however, if the proposed subdivision lies within one (1) mile of a third class city or town or within two (2) miles of a second class city or within three (3) miles of a first class city the county governing body shall submit the preliminary plat to the city or town governing body or its designated agent for review and comment. If the proposed subdivision lies partly within an incorporated city or town, the proposed plat thereof must be submitted to and approved by both the city or town and the county governing bodies. This section does not limit the authority of certain municipalities to regulate subdivisions beyond their corporate limits pursuant to section 11-3305.

(2) The governing body shall approve, conditionally approve, or reject the preliminary plat within sixty (60) days of its presentation unless the subdivider consents to an extension of the review period. The preliminary plat shall show all pertinent features of the proposed subdivision and all proposed improvements. The governing body or its designated agent or agency shall review the preliminary plat to determine whether it conforms to the local master plan if one has been adopted pursuant to sections 11-3801 through 11-3856 to the provisions of this act, and to rules and regulations prescribed or adopted pursuant to this act.

(3) The governing body or its authorized agent or agency shall hold a public hearing on the preliminary plat

and shall consider all relevant evidence relating to the public health, safety and welfare, including the environmental assessment, to determine whether the plat should be approved, conditionally approved, or disapproved by the governing body. Notice of such hearing shall be given by publication in a newspaper of general circulation in the county not less than fifteen (15) days prior to the date of the hearing. The subdivider and each property owner of record immediately adjoining the land included in the plat shall also be notified of the hearing by registered mail not less than fifteen (15) days prior to the date of the hearing. When a hearing is held by an agent or agency designated by the governing body, the agent or agency shall act in an advisory capacity and recommend to the governing body the approval, conditional approval, or disapproval of the plat. This recommendation must be submitted to the governing body in writing not later than ten (10) days after the public hearing. If the governing body rejects or conditionally approves the preliminary plat, it shall forward one (1) copy of the plat to the subdivider accompanied by a letter over the appropriate signature stating the reason for rejection or enumerating the conditions which must be met to assure approval of the final plat. After the preliminary plat is approved, the governing body and its subdivisions may not impose any additional

conditions as a prerequisite to final plat approval PROVIDING SAID APPROVAL IS OBTAINED WITHIN ONE YEAR.

(4) The basis for the governing body's decision to approve, conditionally approve, or disapprove a subdivision shall be whether the preliminary plat, environmental assessment, public hearing, planning board recommendations and additional information demonstrate that development of the subdivision would be in the public interest. The governing body shall disapprove any subdivision which it finds not to be in the public interest. To determine whether the proposed subdivision would be in the public interest the governing body shall issue written findings of fact which weigh the following criteria for public interest:

(a) the basis of the need for the subdivision;

(b) expressed public opinion;

(c) effects on agriculture;

(d) effects on local services;

(e) effects on taxation;

(f) effects on the natural environment;

(g) effects on wildlife and wildlife habitat, and

(h) effects on the public health and safety.

(5) Upon approving or conditionally approving a preliminary plat, the governing body shall provide the subdivider with a dated and signed statement of approval. This approval shall be in force for not more than one (1)

calendar year; at the end of this period the governing body may, at the request of the subdivider, extend its approval for no more than one (1) calendar year.

(6) SUBDIVISIONS CONTAINING 5 OR FEWER PARCELS WHERE PROPER ACCESS TO ALL LOTS IS PROVIDED AND IN WHICH NO LAND IS TO BE DEDICATED TO THE PUBLIC FOR PARKS OR PLAYGROUNDS ARE TO BE REVIEWED AS FOLLOWS:

(A) THE GOVERNING BODY MUST APPROVE, CONDITIONALLY APPROVE, OR DISAPPROVE THE FIRST SUCH SUBDIVISION FROM A TRACT OF RECORD WITHIN 35 DAYS OF THE SUBMISSION OF AN APPLICATION FOR APPROVAL THEREOF;

(B) THE GOVERNING BODY SHALL STATE IN WRITING THE CONDITIONS WHICH MUST BE MET IF THE SUBDIVISION IS CONDITIONALLY APPROVED OR, IF IT DISAPPROVES THE SUBDIVISION, WHAT LOCAL REGULATIONS WOULD NOT BE MET BY THE SUBDIVISION;

(C) THE REQUIREMENTS FOR HOLDING A PUBLIC HEARING AND PREPARING AN ENVIRONMENTAL ASSESSMENT SHALL NOT APPLY TO THE FIRST SUCH SUBDIVISION CREATED FROM A TRACT OF RECORD;

(D) SUBSEQUENT SUBDIVISIONS FROM A TRACT OF RECORD SHALL BE REVIEWED UNDER SECTION 11-3863(5) AND REGULATIONS ADOPTED PURSUANT TO THAT SECTION."

-End-